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BY ECF

Hon. Loretta Taylor Swain
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

MEMO ENDORSED

Re: *United States v Derek Smith*, 16 Cr. 397 (LTS)

Your Honor:

As you may recall, on October 17, 2017, Derek Smith was sentenced by this Court to a term of eighteen months of imprisonment and four years of supervised release. I write now to request early termination of Mr. Smith's supervised release pursuant to 18 U.S.C. § 3583. I have conferred with the Government and Probation Office and neither object to this request.

Mr. Smith was released from prison in March, 2019 and has been on supervised release for approximately two years. During that time, he has lived with his wife, completed a one-year out-patient drug program, and been largely compliant with the terms of his supervised release. But his health has worsened. At the time of his sentencing, we informed this Court that Mr. Smith had, *inter alia*, a collapsed lung and suffered from chronic obstructive pulmonary disease ("COPD"). During the past year, and particularly the past several months, his breathing problems have become more severe. He is unable to walk across the room without losing his breath. He has been admitted to the hospital four times. He is on oxygen 24 hours a day. He is now attempting to obtain a motorized scooter, but transportation for him remains extremely difficult. Because of these health and mobility issues, Mr. Smith has been unable to perform all of the community service. But the Probation Department agrees that he has otherwise been compliant with all of his conditions and that it is not realistic to expect him to be able to fulfill the requirements of community service in view of his health.

18 U.S.C. § 3583 authorizes a district court to grant early termination of supervised release when satisfied that doing so is warranted by the defendant's conduct and interests of justice. In view of Mr. Smith's compliance with the terms of his supervised release and his deteriorating

health, and the lack of opposition from the Government and Probation Office, we believe such relief is warranted here.

Respectfully submitted,

/s/
James E. Neuman

cc: Probation Officer Noah Joseph (by email)
AUSA Jason Swergold (by email and ECF)

The application is granted, effective today, for the reasons stated above. The Court extends its good wishes to Mr. Smith and his family. DE# 426 resolved.

SO ORDERED.

5/20/2021

/s/ Laura Taylor Swain, Chief USDJ